IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

MONDAY, THE 20TH AUGUST 2007 / 29TH SRAVANA 1929

WP(C).No. 25184 of 2007(W)

PETITIONER:

PUSHPARAJAN USHA, ARCHITECT,
OFFICE OF THE CHIEF ARCHITECT,
PUBLIC WORKS DEPARTMENT, TRIVANDRUM.

BY ADV. SRI.N.NANDAKUMARA MENON
SRI.P.K.MANOJKUMAR
SMT.SUSHYA RAJAN

RESPONDENTS:
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1. STATE OF KERALA, REPRESENTED BY THE
SECRETARY TO GOVERNMENT, PUBLIC WORKS B DEPARTMENT
TRIVANDRUM.

2. THE CHIEF ARCHITECT,
PUBLIC WORKS DEPARTMENT,
PUBLIC OFFICE, TRIVANDRUM.

BY GOVERNMENT PLEADER SRI. BIJOY CHANDRAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 20/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J.

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W.P.(C) No. 25184 OF 2007 W
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Dated this the 20th August, 2007

J U D G M E N T

Petitioner was appointed as Architectural Head Draftsman by order dated 29-12-1993 along with one Satheesan. Satheesan claimed that his appointment should be with effect from 7-11-1998 and when that claim was not allowed, he filed O.P. No. 9228 of 1995 before this Court. On the basis of an order passed in that O.P., Ext. P1 order was passed by the Government on 17-4-1996 directing that Shri. Satheesan shall be deemed to be appointed as Architectural Head Draftsman with effect from 7-11-1988 for the limited purpose of reckoning the period from 7-11-1988 to 28-12-1993, for pension.

2. Almost four years after Ext. P1, Ext. P2 representation was filed by the petitioner on 26-4-2000, followed by Ext. P3, claiming the benefit of Ext. P1 Govt. Order. No orders were passed on these representations and the petitioner did not pursue the

claim thereafter.

3. Subsequently, Shri. Satheesan filed O.P. No. 1146 of 1997 claiming that he is entitled to all benefits for the period from 7-11-1998 and the O.P. was allowed by this Court by Ext. P5 judgment dated 3-10-2005. Ext. P5 order was implemented by the Government by Ext. P6 order dated 13-2-2007 and benefits were also granted. In the meantime the petitioner submitted Ext. P7 dated 8-11-2006 claiming the benefit of Ext. P5 judgment and Ext. P6 Govt. Order implementing the same.

4. Now this writ petition is filed by the petitioner for a declaration that the petitioner is entitled to all service benefits including fixation of pay and pensionary benefits for the period of service in the post of Architectural Head Draftsman in the Public Works Department with effect from 7-11-1988 to 28-12-1993 and to direct the respondents to grant benefits that were extended to Shri. Satheesan.

5. In my view this writ petition is highly belated. Although the petitioner is claiming parity in treatment with Satheesan he was vigilant to pursue his claim by filing O.P. Nos. 9228 of 1995 and 1146 of

1997, pursuant to which Ext. P1 dated 17-4-1996 and Ext. P6 dated 13-2-2007 were passed by the Government. During this period the petitioner did not approach this Court except making certain belated representations.

6. Though what he claims is only the benefit of these judgments even for grant of benefit of a judgment conduct of a party including the delay caused is relevant as held by the Supreme Court in ***M/s. A.P. Steel Re-Rolling Mill Ltd. v. State of Kerala & Others*** {AIR 2007 S.C. 797} wherein it has been held as follows:

> "The benefit of a judgment is not extended to a case automatically. While granting relief in a writ petition, the High Court is entitled to consider the fact-situation obtaining in each case including the conduct of the petitioner. In doing so, the Court is entitled to take into consideration the fact as to whether the writ petitioner had chosen to sit over the matter and then wake up after the decision of this Court. If it is found that the appellant approached the Court after a long delay, the same may disentitle him to obtain a discretionary relief. (See Chairman, U.P. Jal Nigam & Anr. v. Jaswant Singh & Anr {2006 (12) SCALE 347}."

7. In the result, I find that the petitioner is guilty of delay and laches and for that reason this writ petition is only to be dismissed. Learned counsel for the petitioner then submitted that Ext. P7 representation is pending before the 1st respondent and sought an order for its disposal. If any such

representation is pending, it is for the authorities to deal with it and I do not express any opinion about the same.

8. The writ petition is dismissed.

ANTONY DOMINIC
JUDGE

jan/-